THE HON'BLE SRI JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 8336 of 2006

DATED: 26.04.2006

BETWEEN:

Chodipilli Pentayya .. Petitioner

And

The District Collector, Visakhapatnam District

And another

..Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

–

WRIT PETITION NO :8336 of 2006

ORDER:

The writ petition is misconceived.

The petitioner claims to be the owner of house property in Survey No. 249 and land in an extent of Ac.1.00 cents. The house property is a three storied building and the petitioner asserts to have incurred an expenditure of Rs.15,00,00/- for its construction.

The respondents initiated land acquisition proceedings to establish a Naval Alternate Operating Base (NABO) for Indian Navy on East Coast in Visakhapatnam. After the due process under the provisions of the Land Acquisition Act, 1894 (for short the Act) notice under Section 9(3) and 10 of the Act have been issued, the property inspected, the measurements taken and estimates prepared duly.

The petitioner's grievance is that the R&B had inspected the building and had submitted a valuation report on 12.3.2006 determining the value of the building at Rs.7,00,000/-. Though it is not stated in the writ petition, it appears that an award has also been passed and the petitioner's grievance is that he is being called upon to accept the amount. He states that he suffers irreparable loss as the building has been undervalued.

The petitioner has filed the writ petition instead of seeking reference under Section 18 of the Act, pleading that by the time the reference would come up for hearing before the Civil Court, the building would be demolished and there will be no evidence permitting accurate valuation of the building.

The writ petition is misconceived. The proper remedy for the petitioner is to seek a reference under Section18 of the Act. The petitioner's apprehension in that the value of the structures should be valued at the stage of the reference is misconception. To establish the true value of the building as on the date of the Section 4(1) notification, the petitioner may lead evidence oral or documentary, in the reference and before the Civil Court.

The writ petition is dismissed at the stage of admission. No costs.

_____

26-04-2006

kvrm